

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

JEFFREY L. LEWIS,)
)
)
Movant,)
)
)
v.) Case No. CV610-007
) CR605-035
UNITED STATES OF AMERICA,)
)
)
Respondent.)

REPORT AND RECOMMENDATION

Upon his guilty plea this Court convicted Jeffrey L. Lewis of distribution of cocaine base in violation of 21 U.S.C. § 841(a), then sentenced him to 180 month's incarceration, later reduced to 162. CR605-035, doc. 37-39, 55, 69. Following his unsuccessful appeal, doc. 65, *United States v. Lewis*, 302 F. App'x 860 (11th Cir. 2008), he moved for 28 U.S.C. § 2255 relief. Doc. 67 at 24. In its last Order the Court explored the legal fork in Lewis's road, given his quest to vacate prior state court convictions on which his federal sentence is based:

Lewis, then, has two options. He may have his [§ 2255] motion ruled upon as filed, or he may withdraw it entirely and reassert it on a later date. *Id.* While the § 2255(f)(1) one-year limitations period may expire, not all hope is lost. If he successfully vacates any of his state convictions that were relied upon at sentencing in federal

court, the limitations period begins to run when he receives “notice of the order vacating the prior conviction, provided that he sought it with due diligence in state court, after entry of judgment in the federal case with the enhanced sentence.”

* * * *

Lewis has 14 days from the date of this Order to make his election to either proceed with all of his claims now or to withdraw his motion with the hope that he may reassert it upon the vacatur of his state convictions.

Doc. 76 at 3-4.

That March 9, 2011 Order was served on March 9, 2011, but was returned as “undeliverable” on March 18, 2011. Doc. 77. The Court re-served him at what it believed to be his new prison address, *see* March 18, 2011 docket entry, but that also was returned on April 11, 2011, as undeliverable. Doc. 78. It is, of course, Lewis’s obligation to keep this Court apprised of his current address. Failure to do so constitutes abandonment, and thus his § 2255 motion should be **DENIED WITHOUT PREJUDICE.**

SO REPORTED AND RECOMMENDED this 11th day of April, 2011.



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT of GEORGIA